

Thanet District Council

Private Sector Housing

Policy for imposing financial penalties under The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

01 December 2020 (DRAFT)

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Introduction

Scope

1. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (“the Regulations”) came into force on 01 June 2020. The Regulations impose mandatory duties on private landlords of residential premises in respect of electrical safety standards.
2. The Regulations apply to all specified tenancies. A “specified tenancy” means a tenancy of residential premises in England which:
 - Grants one or more persons the right to occupy all or part of the premises as their only or main residence;
 - Provides for payment of rent (whether or not a market rent); and
 - Is not a tenancy of a description specified in Schedule 1 to the Regulations.
3. The excluded tenancies set out in Schedule 1 of the Regulations relate to:
 - Social housing, where the landlord is a private registered provider;
 - Accommodation shared with a landlord or a landlord’s family, where at least one amenity is shared (an amenity in this context means a toilet, bathroom, kitchen or living room);
 - Long leases, or tenancies that grant a right of occupation for a term of seven years or more (see Paragraph 3 of Schedule 1 of the Regulations for the definition of long lease);
 - Student halls of residence;
 - Certain hostels and refuges, which are managed by private registered providers of social housing, or operated on a non-commercial basis and funded by central or local government or a government agency, or managed by a voluntary organisation or charity;
 - Care homes, as defined by section 3 of the Care Standards Act 2000;
 - Hospitals and hospices; and
 - Other accommodation relating to healthcare provision (relating to accommodation provided owing to a statutory duty placed on the NHS).
4. In general terms, the Regulations apply to the vast majority of residential tenancies in the private rented sector.
5. The Regulations are subject to a phased introduction, and apply to:
 - All new specified tenancies from 01 July 2020; and
 - All existing specified tenancies from 01 April 2021.

Duties of private landlords in relation to electrical installations

6. Regulation 3 of the Regulations sets out the duties imposed on private landlords.
7. Unless subject to statutory exemption, private landlords must:
 - Ensure that the “electrical safety standards” are met during any period of occupation. For the purposes of the Regulations, the electrical safety standards are the 18th Edition of the IET Wiring Regulations, which are published as British Standard 7671;
 - Ensure that all electrical installations in their rented properties are inspected and tested by a qualified and competent person at intervals of not more than five years (or less if the most recent report recommends a shorter period before the next inspection);
 - Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test;

- Supply a copy of the report to the existing tenant within 28 days of the inspection and test;
- Supply a copy of the report to any new tenant before they occupy the premises;
- Supply a copy of the report to any prospective tenant within 28 days of receiving a written request for the report;
- Supply the local housing authority with a copy of the report within seven days of receiving a written request for a copy;
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test;
- Where the report shows that further investigative and/or remedial work is necessary, complete the work within 28 days or any shorter period if specified in the report;
- Where further investigative and/or remedial work is necessary, supply the tenant and the local housing authority with written confirmation from a qualified and competent person that confirms the completion of the further investigative and/or remedial works within 28 days of the completion of those works.

Duty of local housing authority to serve a Remedial Notice

8. Where a local housing authority has reasonable grounds to believe that a private landlord is in breach of one or more of the duties imposed by the Regulations, the authority must serve a Remedial Notice on that private landlord. A Remedial Notice will specify the remedial action necessary and require that the action be completed within 28 days (beginning with the day on which the notice is served). A private landlord may make written representations against such a notice within 21 days.

Duty of private landlords to comply with a Remedial Notice

9. If served with a Remedial Notice, a private landlord has a duty to take the specified remedial action if:
 - No representations are made to the local housing authority; or
 - The local housing authority confirms the notice after consideration of any written representations received.
10. If no written representations are received, the private landlord must complete the remedial action within the 28-day deadline. If written representations are made and the local housing authority subsequently confirms the notice, the remedial action must be completed within 21 days of the date the private landlord is informed that the notice has been confirmed.

Financial penalties

11. A private landlord who breaches a duty under the Regulations may be subject to a financial penalty of up to £30,000. In the event of a continuing failure, the local housing authority may impose more than one penalty for the same breach of duty.
12. The local housing authority must be satisfied, beyond reasonable doubt, that a breach has occurred before imposing any financial penalty.

Government guidance

13. Local housing authorities should have regard to any guidance issued by the Ministry of Housing, Communities & Local Government (“MHCLG”) when exercising their functions under the Regulations. Non-statutory guidance was issued by the department in June 2020,

namely: *Guide for local authorities: electrical safety standards in the private rented sector*, which is available online at:

<https://www.gov.uk/government/publications/electrical-safety-standards-in-the-private-rented-sector-guidance-for-landlords-tenants-and-local-authorities/guide-for-local-authorities-electrical-safety-standards-in-the-private-rented-sector>

14. The Government guidance recommends that:

Local housing authorities should develop and document their own policy on how they determine appropriate financial penalty levels. Generally, we would expect the maximum amount to be reserved for the very worst offenders. The actual amount levied in any particular case should reflect the severity of the offence as well as taking account of the landlord's previous record of offending.

When developing their policy local housing authorities may wish to consider the policy they previously developed for civil penalties under the Housing and Planning Act 2016 and the guidance published by the government.

15. In respect of civil penalties under the Housing and Planning Act 2016, MHCLG issued statutory guidance under section 23(10) and Schedules 1 and 9 of the same act in April 2018, namely: *Civil penalties under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities*. The guidance states that local housing authorities should consider the following factors to help ensure that any financial penalty is set at an appropriate level:

- Severity of the offence;
- Culpability and track record of the offender;
- The harm caused to the tenant (actual and potential);
- Punishment of the offender (the penalty should be proportionate to the offence and have a real economic impact);
- Deter the offender from repeating the offence;
- Deter others from committing similar offences;
- Remove any financial benefit the offender may have obtained as a result of committing the offence.

16. This policy sets out how Thanet District Council ("the council") will impose financial penalties under the Regulations in accordance with Government guidance. The approach set out in this policy broadly aligns with the council's *Policy for imposing financial penalties under the Housing Act 2004 and Housing and Planning Act 2016*, which was adopted on 14 March 2019 and came into force on 01 April 2019.

Commencement

17. This policy takes effect from 01 December 2020 and applies to all relevant breaches of duty which occur on or after this date.

Determining the starting point for a financial penalty

Severity of the offence

18. A financial penalty may be of any amount up to the statutory maximum of £30,000. However, local housing authorities are expected to reserve the higher amounts for the worst offenders and take a logical and proportionate approach to setting the level of financial penalties more generally. The overarching principle is that the more serious the breach, the higher the penalty should be. The penalty for each breach must therefore be determined on a case-by-case basis.
19. Having due regard to the non-statutory guidance published by the Government, the council has developed the Table of Financial Penalties set out below. The table specifies a range of starting points from £1,000 to £30,000. The starting point is determined by the severity of the breach, which is based on an assessment of the following factors:
 - Culpability;
 - Track record;
 - Portfolio size;
 - Risk of harm.
20. The following paragraphs set out how each determinant is assessed.

Culpability

21. Culpability is a key factor in determining the severity of a breach. Therefore, the level of any penalty will initially be set by calculating the culpability category, which then determines the culpability premium. There are four culpability categories, namely:
 - Very High;
 - High;
 - Medium;
 - Low.

Very High

22. This category applies to breaches where the offender has deliberately breached or flagrantly disregarded the law. This category is subject to a 100% culpability premium.

High

23. This category applies to breaches where the offender had foresight of a potential breach, but through wilful blindness, decided not to take appropriate and/or timely action. This category is subject to a 80% culpability premium.

Medium

24. This category applies to breaches committed through an act or omission that a person exercising reasonable care would not commit. Any person or other legal entity operating as a private landlord is running a business and is expected to be aware of their legal obligations. This category is subject to a 60% culpability premium.

Low

25. This category applies to breaches where there was fault on the part of the offender, but significant efforts had been made to secure compliance with the law, but those efforts were not sufficient. This category is subject to a 40% culpability premium.

Track record

26. The council would expect a good private landlord to have very little contact with the council's Private Sector Housing Team, other than for advice or for licensing obligations. They would be expected to maintain their properties in a good and safe condition and keep up-to-date and comply with all relevant legal requirements. Unfortunately, there are private landlords who are regularly subject to enforcement action owing to their failure to maintain their properties in an acceptable condition.
27. The second step in determining the amount of financial penalty relates to the offender's track record. A historically non-compliant private landlord should be subject to a more significant penalty on the basis that they have yet to change their behaviour. A penalty amount adjustment relating to the offender's track record is therefore appropriate. This should help deter repeat offending.
28. The council will review all relevant records to identify any previous evidence of legislative failings. However, only evidence relating to the five years immediately prior to the breach date will be taken into account. The evidence reviewed will include:
- Any previous convictions for housing related offences;
 - Whether previously subject to a financial penalty for a housing related contravention;
 - Whether previously subject to, or associated with, statutory enforcement action (e.g. Improvement Notice, Emergency Prohibition Order, etc.); and
 - The number of genuine housing condition complaints received in respect of properties associated with the offender.
29. Following the review, the offender's track record will be classed as one of the following categories:
- Significant;
 - Some;
 - None or negligible.

Significant

30. Where there is evidence of multiple enforcement interventions by the council's Private Sector Housing Team, together with evidence of non-compliance, the significant category will be used. This category may be used for any offender who has been successfully prosecuted for a housing offence or been subject to a housing related financial penalty.

Some

31. This category will be used where the offender is associated with more evidence than would normally be expected of a good private landlord having regard to the size and nature of their portfolio. There is likely to be evidence of statutory enforcement action.

None or negligible

32. This category will be used if, following a review of the council's records, there is no relevant evidence associated with the offender. Any unsubstantiated housing condition complaints will be disregarded. The council may also exercise its discretion to disregard any evidence

where the issues were minor in nature and there was no reluctance on the part of the private landlord to resolve the issues within reasonable timescales.

33. The descriptor “Negligible” has been included to allow for a fair and reasonable review of evidence in respect of private landlords with larger portfolios. Therefore, if the evidence is negligible having regard to the size of the portfolio in Thanet, this category will be used.

Portfolio size

34. The size of an offender’s portfolio will be taken into account when determining the amount of financial penalty. While all private landlords are expected to be aware of their legal obligations, the larger the business is, the more proficient and professional the private landlord should be. Furthermore, offenders with a larger portfolio will have more assets and a higher rental income and as such the penalty should have regard to their ability to pay.
35. Taking into account the size of the offender’s portfolio helps ensure that the penalty is set at a high enough level to have a real economic impact, such that it serves as an appropriate punishment as well as a deterrent.
36. The third step in determining the amount of financial penalty requires the council to allocate a portfolio size. There are four size categories which relate to the number of units of accommodation the offender has ownership of, responsibility for, or association with. The size categories are:
- One unit of accommodation;
 - Two to four units of accommodation;
 - Five to 19 units of accommodation;
 - 20 or more units of accommodation.
37. A unit of accommodation is a single dwelling house, a flat (whether self-contained or not) or a room or bedsit within a house in multiple occupation (“HMO”).
38. The common parts of a building containing one or more flats will also be counted as one unit of accommodation for the purposes of determining the portfolio size, if the private landlord concerned is only responsible for the common parts and not for any flats within the building. If the private landlord concerned is responsible for one or more flats within the building, the common parts will be disregarded.
39. Some offenders own properties directly; some are directors of companies which own property. It is also not uncommon for an offender to be strongly associated with the management of a rented property, but actual ownership, for whatever reason, is in the name of a husband, wife or partner. All units of accommodation that are clearly associated with the offender will be taken into account when determining the portfolio size.
40. The council will determine which category to place the offender in using the information it already holds and any information it can reasonably obtain in making the assessment.
41. If the council cannot ascertain any information as to whether the offender has any other properties, an assumption will be made, with the default position being two to four units of accommodation. However, if the offender is also running a business as an agent, it will be assumed that they are responsible for 20 or more units of accommodation.

Risk of harm

42. The fourth step in determining the amount of financial penalty concerns the risk of harm associated with the breach. The nature of the exposure to a harmful occurrence is an important factor when considering the severity of a breach.

43. The council will make an assessment of the risk of harm by having regard to the seriousness of the potential harm outcome as well as the likelihood of that harm occurring. The breach will be placed into one of the following four categories:

- Level 1;
- Level 2;
- Level 3;
- Level 4.

44. To assist in determining the level of risk, potential harm outcomes are classified as serious, severe or extreme and the likelihood classified as low, medium or high.

Level 1

45. This category will be used when the risk of harm does not fall within the Level 2, Level 3 or Level 4 categories.

Level 2

46. The use of this category may infer that the breach was associated with:

- A potentially extreme harm outcome, where the likelihood of a harmful event occurring was low; or
- A potentially severe harm outcome, where the likelihood of a harmful event occurring was medium; or
- A potentially serious harm outcome, where the likelihood of a harmful event occurring was high.

Level 3

47. The use of this category may infer that the breach was associated with:

- A potentially extreme harm outcome, where the likelihood of a harmful event occurring was medium; or
- A potentially severe harm outcome, where the likelihood of a harmful event occurring was high.

Level 4

48. The use of this category may infer that the breach was associated with:

- A potentially extreme harm outcome, where the likelihood of a harmful event occurring was high.

Table of Financial Penalties

49. Having made the four-step assessment described above, the council will determine the starting point for the financial penalty using the Table of Financial Penalties set out on the next page.

Table of Financial Penalties

Culpability	Track Record	Portfolio Size	Risk of Harm			
			Level 1	Level 2	Level 3	Level 4
Very High (100% Premium)	Significant	1	£7,500	£10,000	£12,500	£20,000
		2 to 4	£10,000	£12,500	£15,000	£22,500
		5 to 19	£15,000	£17,500	£20,000	£27,500
		20 +	£17,500	£20,000	£22,500	£30,000
	Some	1	£5,000	£7,500	£10,000	£17,500
		2 to 4	£7,500	£10,000	£12,500	£20,000
		5 to 19	£12,500	£15,000	£17,500	£25,000
		20 +	£15,000	£17,500	£20,000	£27,500
	None or negligible	1	£2,500	£5,000	£7,500	£15,000
		2 to 4	£5,000	£7,500	£10,000	£17,500
		5 to 19	£10,000	£12,500	£15,000	£22,500
		20 +	£12,500	£15,000	£17,500	£25,000
High (80% Premium)	Significant	1	£6,000	£8,000	£10,000	£16,000
		2 to 4	£8,000	£10,000	£12,000	£18,000
		5 to 19	£12,000	£14,000	£16,000	£22,000
		20 +	£14,000	£16,000	£18,000	£24,000
	Some	1	£4,000	£6,000	£8,000	£14,000
		2 to 4	£6,000	£8,000	£10,000	£16,000
		5 to 19	£10,000	£12,000	£14,000	£20,000
		20 +	£12,000	£14,000	£16,000	£22,000
	None or negligible	1	£2,000	£4,000	£6,000	£12,000
		2 to 4	£4,000	£6,000	£8,000	£14,000
		5 to 19	£8,000	£10,000	£12,000	£18,000
		20 +	£10,000	£12,000	£14,000	£20,000
Medium (60% Premium)	Significant	1	£4,500	£6,000	£7,500	£12,000
		2 to 4	£6,000	£7,500	£9,000	£13,500
		5 to 19	£9,000	£10,500	£12,000	£16,500
		20 +	£10,500	£12,000	£13,500	£18,000
	Some	1	£3,000	£4,500	£6,000	£10,500
		2 to 4	£4,500	£6,000	£7,500	£12,000
		5 to 19	£7,500	£9,000	£10,500	£15,000
		20 +	£9,000	£10,500	£12,000	£16,500
	None or negligible	1	£1,500	£3,000	£4,500	£9,000
		2 to 4	£3,000	£4,500	£6,000	£10,500
		5 to 19	£6,000	£7,500	£9,000	£13,500
		20 +	£7,500	£9,000	£10,500	£15,000
Low (40% Premium)	Significant	1	£3,000	£4,000	£5,000	£8,000
		2 to 4	£4,000	£5,000	£6,000	£9,000
		5 to 19	£6,000	£7,000	£8,000	£11,000
		20 +	£7,000	£8,000	£9,000	£12,000
	Some	1	£2,000	£3,000	£4,000	£7,000
		2 to 4	£3,000	£4,000	£5,000	£8,000
		5 to 19	£5,000	£6,000	£7,000	£10,000
		20 +	£6,000	£7,000	£8,000	£11,000
	None or negligible	1	£1,000	£2,000	£3,000	£6,000
		2 to 4	£2,000	£3,000	£4,000	£7,000
		5 to 19	£4,000	£5,000	£6,000	£9,000
		20 +	£5,000	£6,000	£7,000	£10,000

Determining whether adjustment of the financial penalty is appropriate

Review

50. The level of financial penalty should, in a fair and proportionate way, meet the objectives of punishment, deterrence and the removal of gain. As such, the council will, once the starting point has been determined, review the proposed financial penalty and consider whether there are any other mitigating or aggravating factors that should be taken into account when setting the amount of financial penalty. If there are none, no adjustment will be made to the starting point identified by the Table of Financial Penalties.
51. Some examples of mitigating and aggravating factors are given below. However, the list is not exhaustive, and the council may take into account any factor deemed to be relevant.

Hardship (Private landlord)

52. If at this stage of the process, the council is aware of the offender's personal situation and financial position, and is of the view that there are exceptional circumstances, it may be appropriate to reduce the amount of financial penalty.

Hardship (Tenant)

53. If, owing to the imposition of a financial penalty on a private landlord, the tenant will - through no fault of their own - experience hardship, the council may consider reducing the amount of financial penalty, but only in exceptional circumstances.

Previous breaches or offences

54. While the Table of Financial Penalties takes into account the offender's track record, there may be circumstances in which the nature of previous breaches require a more robust approach to punishment.
55. For example, if a historically non-compliant private landlord persists in ignoring their obligations under the Regulations, the starting point may not be sufficiently high enough in certain circumstances. Such a circumstance could be when a private landlord continually fails to arrange for the inspection and testing of the electrical installations in their properties, but no significant electrical hazards have been associated with the property currently under investigation. If a *Significant* track record category is already in use for a certain offender, repeated breaches where the *Culpability* is very high would be restricted owing to the *Risk of Harm* categorisation. However, the repeated breaches would be demonstrating a complete disregard for the law. Therefore, for any repeated breach so restricted, the council may consider increasing the amount of financial penalty.

Scale of exposure

56. The greater the number of people exposed to the risk of harm, the more significant the breach. While the Table of Financial Penalties takes into account the risk of harm, it does not take into account the number of persons exposed to that harm. Accordingly, if the number of persons exposed is higher than average, the council may consider increasing the amount of financial penalty.

Actual harm

57. If actual harm has occurred, the council may consider increasing the amount of financial penalty. If the harm outcome is of a serious nature, it is likely the council will seek to review the financial penalty upwards.

Adjustment range

58. The adjustment range will usually be limited to an amount equal to 50% of the starting point. The maximum 50% variance may be above or below the initial starting point. For example, if the starting point is £9,000, the maximum 50% variance is £4,500. As such, the financial penalty could be reduced to an amount not lower than £4,500 or increased to an amount not greater than £13,500.
59. Unless there are exceptional circumstances, the council will not vary the financial penalty by more than 50%, and is restricted by the statutory maximum of £30,000.

Decision making

60. If the council decides to vary the proposed financial penalty away from the starting point identified in the Table of Financial Penalties, it will make a record of its decision and notify the offender of the reasons for that decision.
61. To ensure fairness and transparency, the decision to vary a financial penalty will be subject to review by a senior manager of the council. In the first instance, the variation will be proposed by the Private Sector Housing Manager. The proposal will be reviewed by the Director of Housing and Planning, or an officer of similar or higher seniority, and a final decision made by that senior manager. From time to time, the job titles of officers are altered by the council and any reference to the Private Sector Housing Manager or the Director of Housing and Planning may be deemed to include a reference to any future equivalent post.

Notice of Intent and right to make representations

Notice of Intent

62. Before imposing a financial penalty, the council must first give the offender notice of its intention to impose such a penalty. This type of notice is known as a “Notice of Intent”.
63. The Notice of Intent must be served before the end of the period of six months beginning with the first day on which the council was satisfied that a breach had occurred. The first day is referred to as the “the relevant day”. However, if the breach is ongoing after the relevant day, the Notice of Intent may be served at any time while the breach is continuing. If the breach stops after the relevant day, the Notice of Intent must be served within six months of the date the breach ceased.
64. The Notice of Intent must set out:
 - The amount of the proposed financial penalty;
 - The reasons for proposing to impose the financial penalty, and
 - Information about the right to make representations.

Written representations

65. A private landlord served with a Notice of Intent may make written representations to the council about the proposal to impose a financial penalty. Any representations must be made within the period of 28 days beginning with the day after that on which the Notice of Intent was served.

Financial position

66. The offender may wish to submit information as to their financial position. If the council was aware of the financial position of the offender before serving the Notice of Intent, the council may have already made adjustments to the proposed financial penalty. However, this may not be the case and offenders are advised to use the 28-day period to make the council aware of their financial situation, particularly if they would have difficulties in paying the proposed financial penalty.

Review of representations

67. The council will carefully review any written representations received during the 28-day period before taking any further action. There is no statutory timeframe for the review process, but the council will seek to make a decision as to its proposed course of action as soon as possible.
68. The council will take one of the following courses of action:
 - Withdraw the proposal to impose a financial penalty;
 - Impose a financial penalty of an amount lower than that proposed in the Notice of Intent;
 - Impose the financial penalty proposed in the Notice of Intent;
 - Propose to impose a financial penalty of an amount higher than that specified in the Notice of Intent.

69. If the council decides to withdraw the proposal to impose a financial penalty, it will confirm its decision in writing. If the council decides to impose a financial penalty of a lower or equal amount to that proposed in the Notice of Intent, it will serve a Final Notice.
70. If the offender provides written representations that increase the severity of the breach committed, the council may seek to impose a higher financial penalty. If the council decides to take that course of action, it will withdraw the original Notice of Intent and serve a revised Notice of Intent proposing an increased financial penalty. The offender would then receive an additional 28 days in which to make further written representations.

Reduction of financial penalty

71. A reduction in the amount of financial penalty to be imposed may arise from the council altering the starting point on the Table of Financial Penalties.
72. Whether the council decides to alter the starting point or not following any written representations, the council will not usually reduce the financial penalty by more than 50% of the finalised starting point.
73. If the council decides not to alter the starting point after its review of any written representations received, and it has already used its discretion to make the maximum 50% reduction from that starting point prior to serving the Notice of Intent, no further reduction will be made, unless there are exceptional circumstances.

Decision making

74. To ensure fairness and transparency, every decision to impose a financial penalty will be subject to review by a senior manager of the council. In the first instance, the imposition of a financial penalty will be proposed by the Private Sector Housing Manager, who will provide an assessment of any written representations received. The proposal will be reviewed by the Director of Housing and Planning, or an officer of similar or higher seniority, and a final decision made by that senior manager. From time to time, the job titles of officers are altered by the council and any reference to the Private Sector Housing Manager or the Director of Housing and Planning may be deemed to include a reference to any future equivalent post.

Final Notice and right of appeal

Contents of Final Notice

75. If the council decides to impose a financial penalty following its review of any written representations received, it will serve a “Final Notice” on the offender.
76. The Final Notice will set out:
- The amount of the financial penalty;
 - The reasons for imposing the penalty;
 - Information about how to pay the penalty;
 - The period for payment of the penalty;
 - Information about rights of appeal; and
 - The consequences of failure to comply with the notice.
77. The period in which a financial penalty must be paid has been determined by the Regulations. All financial penalties must be paid within the period of 28 days beginning with the day after that on which the Final Notice was served.

Appeals

78. A private landlord on whom a Final Notice has been served may appeal to the First-tier Tribunal against:
- The decision to impose the financial penalty; or
 - The amount of the financial penalty.
79. Appeals must be brought within the period of 28 days beginning with the day after that on which the Final Notice was served.
80. Once an appeal has been lodged, the Final Notice is suspended until the appeal has been finally determined or withdrawn.
81. The First-tier Tribunal has the power to confirm, vary (reduce or increase), or cancel the Final Notice. If the First-tier Tribunal decides to increase the financial penalty, it may only do so up to the statutory maximum of £30,000.
82. As of 01 December 2020, the address and contact details of the First-tier Tribunal (Southern Region) were:
- First-tier Tribunal - (Property Chamber) Residential Property
Havant Justice Centre
The Court House
Elmleigh Road
Havant
Hampshire PO9 2AL
- Email: rpsouthern@justice.gov.uk | Tel: 01243 779 394 | Fax: 0870 7395 900
83. The address of the First-tier Tribunal changes from time to time, but the latest address will be detailed on any Final Notice served and can be found at:
- <https://www.gov.uk/courts-tribunals/first-tier-tribunal-property-chamber>

Reduction for early acceptance of guilt

Public interest

84. As with criminal prosecutions, the council is of the opinion that an early acceptance of guilt is in the public interest. It saves public time and money.

Demonstrating early acceptance of guilt

85. An offender can demonstrate an early acceptance of guilt by paying a financial penalty within 21 days of the date the Final Notice was served. If cleared payment is made within this time period, the offender can benefit from a 25% reduction in the amount of financial penalty payable.
86. A Final Notice will set out the finalised financial penalty amount determined having regard to this policy and an amount equal to 75% of that sum, which would be accepted if received within the 21-day period.
87. If the council is required to defend its decision at the First-tier Tribunal, there will inevitably be additional costs in officer time and expenses. As such, no reduction is available for cases subject to an appeal to the First-tier Tribunal. If an offender makes an early payment at the reduced rate, but then decides to appeal at a later date, the council will seek the full finalised amount during the appeal proceedings.

Unpaid financial penalties

County Court

88. The council will take robust action to recover any financial penalty (or part thereof) not paid within the statutory 28-day period.
89. An application for an order of the County Court will usually be made in respect of all unpaid financial penalties. A certificate signed by the Chief Finance Officer of the council stating that the financial penalty (or part thereof) has not been paid will be accepted by the court as conclusive evidence of that fact.
90. In taking court action, the council would seek to recover interest and any court expenses incurred, in addition to claiming the full amount of unpaid financial penalty.

Enforcement

91. If an offender does not comply with an order of the court, the council will usually make an application to enforce the judgement. The type of enforcement action pursued would depend on the circumstances of the case and the amount owed. The most likely types of enforcement action are shown below.

Court bailiffs

92. A court bailiff will ask for payment. If the debt is not paid, the bailiff will visit the offender's home or business address to establish whether anything can be seized and sold to pay the outstanding debt.

Charging order - Order of sale

93. The council can apply to place a charging order on any property owned by the offender. If a debt remains outstanding after a charging order has been registered, the council can make an application for an order of sale. The property would then be subject to an enforced sale and the proceeds used to settle the debt owed to the council.

Attachment to earnings order

94. If the offender is in paid employment, the council can apply to the court for an attachment to earnings order. Such an order would require the offender's employer to make salary deductions. Amounts would be deducted regularly at the direction of the court until the debt owed to the council has been fully discharged.

Multiple breaches

General principle

95. When considering imposing more than one financial penalty on an offender as a consequence of that offender committing more than one breach, the council will carefully consider whether the cumulative financial penalty would be just and proportionate in the circumstances having regard to the offending behaviour as a whole.
96. Taking into account the principle of totality ensures that the cumulative effect of any sanctions imposed by the council does not constitute an unjust and disproportionate punishment.

Determining a just and proportionate punishment

97. The council will initially determine the amount of financial penalty that should be imposed in respect of each breach having regard to this policy. The council will then add up the financial penalties and make an assessment as to whether the cumulative total is just and proportionate.
98. If the council considers the cumulative total to be just and proportionate, it will normally impose a financial penalty for each breach.
99. However, if the council considers the cumulative total to be unjust and disproportionate, it will take one or both of the following actions to ensure that the cumulative total is reduced to an amount that does constitute a just and proportionate punishment.

Reduction of financial penalty

100. The council may use its discretion to reduce the amount of a financial penalty at the review and adjustment stage, irrespective of whether or not there are other mitigating or aggravating factors. Any reduction would usually be limited to an amount equal to 50% of the starting point identified in the Table of Financial Penalties. The additional reduction may be applied to one or more of the breaches under consideration.

Decision not to impose a financial penalty

101. The council may use its discretion and decide not to impose a financial penalty in respect of every breach under consideration. If the council decides to take this course of action, the breach or breaches disregarded will usually be of a lower severity.

Help and advice

103. If you would like further advice or clarification, the Private Sector Housing Team can help. Please ring us on 01843 577437 and speak to one of our officers. We can also be contacted by email on: housing.conditions@thanet.gov.uk.

104. Alternatively, you can write to us at:

Private Sector Housing
Thanet District Council
PO Box 9
Cecil Street
Margate
Kent CT9 1XZ

Making a complaint

105. The Private Sector Housing Team aims to provide the best possible service. However, if you are not happy with the service you receive you can make a formal complaint.

106. More information about how to make a formal complaint can be found on the council's website at: www.thanet.gov.uk. Alternatively, you can call, email or write to us:

Telephone: 01843 577000 | Email: customer.feedback@thanet.gov.uk

Address: Customer Feedback, Thanet District Council, PO Box 9, Cecil Street, Margate, Kent, CT9 1XZ.

107. If, after having gone through the council's formal complaints process, you believe that the council has not handled your complaint properly, you have the right to request an independent investigation by the Local Government and Social Care Ombudsman. The Ombudsman Service will review your complaint and decide if it is appropriate to carry out an investigation. The service is free of charge.

108. You can make a complaint online or by phone at:

The Local Government and Social Care Ombudsman
Telephone: 0300 061 0614 | Website: www.lgo.org.uk.

Document history

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Private Sector Housing

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